

## V. Waivers Requested

This demonstration program requires waivers from provisions of Title XIX of the Social Security Act and federal regulations promulgated thereunder. This section does not address our proposal comprehensively, but instead speaks to those areas that the Commonwealth has determined require waivers. Section 1115(a)(2) permits Massachusetts to regard as expenditures under the State plan costs of the demonstration project that would not otherwise receive a federal match under section 1903 of the Social Security Act. This provision allows the Secretary of the Department of Health and Human Services (Secretary) to waive existing program restrictions and provide expanded eligibility and/or services to individuals not otherwise covered by Medicaid.

Massachusetts requests that, under the authority of Section 1115(a)(2), expenditures for the items identified below (which are not otherwise included as expenditures under Section 1903) be regarded as expenditures under Massachusetts' Medicaid State Plan:

- Expenditures to provide and receive comprehensive pharmacy benefits to individuals whose income is at or below 200 percent of the FPL, who are seniors age 65 and older
- Administrative expenditures for demonstration participants including but not limited to collecting program participants' fees, enrolling pharmacies, producing and distributing enrollment cards to program participants, responding to client inquiries, collecting third-party insurance information and evaluation and monitoring of this demonstration waiver, including its impact on federal Medicare expenditures.

If the Secretary deems that it must grant waivers of the following provisions in order to approve a demonstration project as described above under Section 1115 (a)(2) of the Social Security Act, the Commonwealth requests that it do so:

- Eligibility- Income. Sections 1902(l), 1903(f) of the Social Security Act and Sections 435.100 et seq. of Title 42 of the Code of Federal Regulations (CFR). These sections prohibit Federal Financial Participation (FFP) to states that implement income eligibility standards in excess of the stated maximums. Massachusetts seeks to expand eligibility for pharmaceuticals to non-categorical individuals with incomes at or below 200 percent of the FPL.
- Eligibility - Resources. Sections 1902(a)(17), 1902(a)(10)(A)(ii)(I) and (II) of the Social Security Act and 42 CFR Part 435, Subparts G, H, and I. These sections establish standards for taking into account income or resources of individuals who are not receiving assistance under Temporary Assistance to Needy Families (TANF) or Supplemental Security Income (SSI). All TANF and SSI recipients are entitled to Massachusetts Medicaid benefits. People who are ineligible for TANF or SSI benefits will be eligible for this demonstration pharmacy program if they meet age and income requirements, however, there will not be an asset test applied to demonstration population. Massachusetts seeks to use different standards for taking into account resources in determining eligibility for this demonstration project.

- Comparability. Section 1902(a)(10)(B) of the Social Security Act and 42 CFR 440.230 through 440.250. These sections require the amount, duration, and scope of services be equally available to all recipients within an eligibility category and be equally available to all categorically eligible and medically needy recipients. Massachusetts seeks to offer a comprehensive drug benefit to the proposed expanded population.
- Copayments. Section 1916(b)(3), 1616(e), and 1916(e) of the Social Security Act, and 42 CFR 447.54. Section 1916(b)(3) requires that copayments be nominal in amount and identical among all Medicaid recipients. 42 CFR 447.54 lists the maximum allowable charges for copayments. Massachusetts seeks to establish copayments that vary from the general Medicaid populations and to establish copayment amounts that exceed the maximum allowable amount, but include an out of pocket maximum. Section 1916(e) requires that no provider participating under the state plan deny services to an eligible individual for inability to pay the cost-sharing amount. Massachusetts seeks not to require a retail pharmacy or mail order service to dispense an outpatient prescription upon the failure of an enrollee to make the required copayment.
- Retrospective Benefits. Section 1902(a)(34) of the Social Security Act and 42 CFR 435.914 require a State to provide medical assistance retroactively for up to three months prior to the date of application in certain circumstances. Massachusetts seeks to establish the effective date for demonstration participants as the date of enrollment as determined in accordance with enrollment process outlined earlier in this document.
- Administration. Section 1902(a)(5) of the Social Security Act and 42 CFR 431.10. These sections prohibit the State from contracting with a private contractor to make eligibility determinations for Medicaid. Massachusetts intends to use a pharmacy program enrollment contractor to process applications and determine eligibility.

Massachusetts requests the right to seek other waivers if the Secretary or the Commonwealth determines subsequently that additional waivers are needed to implement the proposed pharmacy program.